

Executive Director/Chief Administrative Law Judge Jay Arcellana expressed his gratitude to the San Diego staff and to Presiding ALJ Harold Rucker for their hospitality in hosting today's Board meeting. Executive Director/Chief Administrative Law Judge Arcellana also thanked P&PM staff for helping with details of putting the meeting together.

Executive Director/Chief Administrative Law Judge Arcellana reported that CUIAB has been instructed by the Labor Agency to disclose all vacant positions. This request is normal given the budget challenges that confront the state. The downside is that if CUIAB were to lose vacant positions, we may also lose flexibility needed to manage a fluctuating workload.

Executive Director/Chief Administrative Law Judge Arcellana further reported that the Labor Agency has denied our Secretary's Action Request to conduct quarterly meetings for the Presiding ALJ's and supervisors over the next 18 month period. We made the request for planning purposes and to minimize the need to seek approval each quarter. However, the denial was based on understandable reasons. Agency did not want CUIAB to be making long-term policy decisions while the Board Chair position was being considered for appointment or reappointment, and that it was against Agency policy to make decisions which span fiscal years. Hence, we will continue to make our requests for meetings each quarter.

Executive Director/Chief Administrative Law Judge Arcellana noted that 53 candidates took the ALJ II exam and all candidates passed; 50 accepted promotions to ALJ II. The majority of CUIAB ALJ's now are ALJ II's. Executive Director/Chief Administrative Law Judge Arcellana commended all of the candidates and thanked the support staff who worked on the exam.

Executive Director/Chief Administrative Law Judge Arcellana stated that PALJ Tim McArdle, Paul Prestwich and others met with Clear2there in San Diego yesterday. Clear2there is an information services company specializing in technical support for appellate agencies, including digital recording and storage of hearings. They presented an impressive demonstration of their system which, at present, is telephone based. As they make further refinements, it could become an attractive option for CUIAB in future years should the decision be made at some point to change vendors. At present, however, CUIAB is about to embark on a pilot project to digitally record hearings and will use Dictaphone as the vendor.

On another matter, Executive Director/Chief Administrative Law Judge Arcellana reported on the state of the interpreter services program. Interpreter services are CUIAB's second largest uncontrollable cost item, second only to leases. Although annual interpreter expenditures have declined slightly to about \$1.4 million per year, the cost per hearing has trended steadily downward. At the start of the program in 2004, CUIAB was paying an average of \$59.00 for interpreter services per hearing. That cost has been reduced to slightly more than \$50.00 per hearing. It is very positive that this cost item has been brought under control, particularly with regard to exotic languages. The use of Language Line has helped immensely. Although Language Line is used in only a small percentage of interpreter hearings, it is a very economical and, more importantly, it has prevented many hearings from having to be continued. The number of Language Line hearings is miniscule. Last year, we conducted 27,864 interpreter hearings. Of these, 596 were on Language Line, just 2.14% of the interpreter hearings. The savings are critical because it

helps pay for salary increases, such as the ALJ II promotion, and also helps to pay for the cost of new ALJ hires.

## **7. Branch Reports:**

**a.** Executive Director/Chief Administrative Law Judge Arcellana reported on last week's quarterly PALJ meeting. CUIAB's DOL Region VI representative, Pat O'Neal, participated in the meeting. The agenda was packed with informational items and ideas for the coming fiscal year. These ideas will be implemented with the supervisors in future LSS I and II meetings.

Executive Director/Chief Administrative Law Judge Arcellana announced one additional Judge is being hired in Oxnard and two each in Inland and Sacramento. Long term projects include checking IDs at hearings, dealing with fluctuations in workload and inventory, and regionalizing, centralizing, and standardizing the verification and calendaring process.

Executive Director/Chief Administrative Law Judge Arcellana further reported that in the San Diego Office of Appeals, ALJ Octavio Aguilar has retired. ALJ's Catriona Miller and David Valles have passed probation. In the Inland Office of Appeals, ALJ Judith Taylor's husband died recently.

Finally, Executive Director/Chief Administrative Law Judge Arcellana noted that California once again passed the DOL quality review, and commended our trainers and the judges for their efforts.

**b.** Deputy Chief ALJ, Appellate Operations Steve Angelides reported that Board ALJs took fewer vacation days and had fewer special assignments in July. Thus, dispositions rose to 1572 cases in July. However, the appeal rate fell from 9.7 percent in June to 6.6 percent in July and, as a consequence, only 1217 new cases were registered. This is the lowest number of case registered since August, 2002. At present, there are 2067 open cases at Appellate, the lowest since November, 2002. The average case aging fell to 40 days in July from 42 days in June. The median case age was 34 days in July, a reduction from 37 days in June.

The two oral arguments that are scheduled for August 30<sup>th</sup> in Los Angeles are now ready to go. The binders are complete and will be issued to the Board Members shortly. As this involves two cases, there will be two separate binders.

Deputy Chief Angelides noted that the training package for the upcoming Judicial Conference set for September 27 and 28 in Long Beach is nearly complete.

Deputy Chief Angelides further stated one proposed precedent decision is ready for the Board to review and another is nearly complete.

Deputy Chief Angelides noted that, due to the drop in the workload, Appellate is now loaning judges to the Field. Overtime is no longer being authorized and support staff is being cross trained.

Deputy Chief Angelides further reported that there are six candidates for the vacant LSS I position at Appellate Operations. Three candidates are from CUIAB and three are from outside the agency. Full circle interviews are scheduled for August 16th.

Deputy Chief Angelides stated that the CUIAB picnic was well received by all 80 attendees. He noted that Chair Thornton and Member Strom-Martin were in attendance together with EDD director Pat Henning. He noted there will be a reception and a meeting before the Board Meeting on November 6<sup>th</sup> in Sacramento.

Finally, Deputy Chief Angelides reported that Board ALJs Joel Contreras and Susana Halfon recently celebrated their 25<sup>th</sup> anniversaries in state service.

c. Deputy Director, Administrative Services Branch Pam Boston reported that Personnel Officer Al Ramirez will retire in December. His last day of work will be Friday, August 12<sup>th</sup>. She thanked Al for his terrific service during his one year tenure with CUIAB.

Deputy Director Boston further reported that AGPA Pat McArdle began her partial service retirement as of this month.

Deputy Director noted that personnel analyst Susan Williams is providing attendance clerk training in the Inglewood and Inland offices this month.

On another matter, Deputy Director reported that the post and bid agreement between DPA and SEIU, on which she reported last month, has expired. CUIAB will not be required to participate in this program.

Finally, Deputy Director reported that an analyst and a programmer were hired recently in IT. She further noted that the PC rollout is now under way.

d. Deputy Director, Planning and Program Management Branch Mary Walton-Simons reported on the status of the customer survey currently underway in the Field Operation. The survey instrument uses a five point Likert scale with eight closed-ended questions that measure both transactional (customer interaction with CUIAB) and image-based (overall impression with CUIAB) satisfaction. The survey is being conducted in six offices during the first two weeks in August and will be conducted in the remaining six offices during the last two weeks in August. The P&PM staff are monitoring and collecting all surveys to alleviate any additional work for the receptionists. The purpose of the survey is to measure the quality of FO services and the participants' level of satisfaction in the appeals process. In an informal review of the P&PM monitors, it appears that 85-90% of the surveys are being returned in Oakland and Sacramento while approximately 60% are being returned in Inglewood and Orange County.

Deputy Director Walton-Simons stated that training for Presiding ALJs on review and interpreting of the management information systems reports in the Field Operation is continuing. The training was given in San Diego yesterday and will be given in Fresno and Sacramento later this month.

Deputy Director Walton-Simons further reported that the mandatory information security training, provided by Information Security Officer Michele Robinson, is nearly complete. A total of 180 employees were given the training in July. Only make up training remains to be given. The feedback on the training has been very good.

Finally, Deputy Director Walton-Simons reported that AGPA Cindy Abercrombie's father passed away on August 7.

## **7. Chief Counsel's Report:**

PALJ Tim McArdle reported on behalf of Chief Counsel Ralph Hilton and Staff Counsel Kim Hickox who were unavailable.

The workload was distributed equally among all Board members' last month except for Member Richardson who was on vacation for part of the month. (Attachment A)

PALJ Tim McArdle reported that there are now 111 court cases in the inventory. Five new cases were filed in July and four were closed. (Attachment B) The CUIAB prevailed in each of the four closed cases.

PALJ Tim McArdle then reported on two significant cases currently pending in the Court of Appeal. The first case involves the San Francisco Unified School District. The case is now fully briefed and scheduled for oral argument in the Court of Appeal on August 11<sup>th</sup>. The issue in the case involves whether substitute teachers who make themselves available for work in the district's summer session are rendered ineligible by the "reasonable assurance" provisions of Section 1253.3 of the Unemployment Insurance Code. The Board held that they are not ineligible.

The other case involves *First Aid Services v. CUIAB/EDD*. This case challenges the statutory process, as applied to benefit decision, set forth in section 1241 of the code whereby a tax petitioner must have its petition denied and must have paid the taxes in full before filing a court action. Chief Counsel will give a full report on these cases at the upcoming Judicial Conference.

## **9. Unfinished & New Business:**

Executive Director/Chief Administrative Law Judge Arcellana delivered a PowerPoint presentation in which Chair Thornton's five year tenure as Chair of this Board was celebrated. Ms. Thornton came to the Board in 2000 while the Board was experiencing one crisis after another. The crises have continued and the road hasn't been smooth but it has been a highly satisfying ride. The presentation

included photos of past Boards and highlights from previous conferences. Executive Director/Chief Administrative Law Judge Arcellana closed the presentation by noting that the best is yet to come.

Executive Director/Chief Administrative Law Judge Arcellana further noted that the Presiding ALJs have signed and sent a letter to Governor Schwarzenegger in support of Ms. Thornton's reappointment as Chair of this Board.

**10. Public Comment:**

There was no public comment.

**11. Closed Session:**

The regularly scheduled Board meeting adjourned, and the Board went into closed session. No votes were taken on any matters in closed session.